

Statement by

Duane Acklie
Chairman
American Trucking Associations, Inc. (ATA)

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And Hazardous Materials Licensing

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I. Introduction

Good morning Mr. Chairman and members of this Subcommittee. My name is Duane Acklie, and I am Chairman of Crete Carrier Corporation, a trucking company based in Lincoln, Nebraska. I am also Chairman of the American Trucking Associations, Inc. (ATA), with offices located at 2200 Mill Road, Alexandria, Virginia 22314. ATA is the national trade association of the trucking industry. Through the affiliated state trucking associations, affiliated conferences and other organizations, ATA represents more than 30,000 trucking companies based throughout these United States. I sincerely appreciate the opportunity to speak to this Subcommittee today on behalf of ATA.

Mr. Chairman, in the wake of the September 11 attacks, the U.S. trucking industry has continued to work hard to support America's goals of keeping our country and our economy moving forward. I am very proud of this industry's efforts to keep America moving. In fact, on the morning of September 11, while the members of ATA staff were able to view from the windows of the ATA building the smoke rising from the attack on the Pentagon, from the opposite side of the ATA building in Alexandria, Virginia, they were able to see trucks on the Capital beltway continuing to move America.

As members of this Subcommittee know, motor carriers are a critical component of the United States' economic strength, with 9 billion tons of freight transported by intercity and local trucks, representing 68% of the total domestic tonnage shipped. The trucking industry generates revenues of \$606 billion annually, equaling almost 5% of our GDP, and a figure that represents nearly 87% of all revenues generated by our nation's freight transportation industry.

As in all other sectors of our country's economy, the horrific attacks have heightened security concerns in the trucking industry, and even more so after it was recently reported by the FBI that some suspected terrorists had obtained commercial driver's licenses (CDLs) to operate large trucks. It appears that motor carriers involved in transporting hazardous materials (hazmats) may have been, or

may be, targeted for hijackings or theft for use in potential acts of terrorism. Obviously, this is a major concern to our industry, and I commend you for holding this hearing today to identify ways to address these very real threats.

In my testimony today, I will communicate ATA's longstanding involvement in trucking security issues, including issues associated with the transportation of hazmats and sensitive military freight. I will also recommend several potential legislative improvements to enhance security in the trucking industry.

II. ATA's Involvement in Transportation Security and Related Issues

Security

ATA and its members have long been actively involved in providing safe and secure transportation of goods on behalf of customers and their consumers. Since 1982, ATA has maintained a Council of members dedicated to advancing security and loss prevention issues. The name of this organization has undergone numerous changes since its inception, and today is known as the Safety & Loss Prevention Management Council (Safety Council). The Safety Council has two committees, the Security Committee and the Claims and Loss Prevention Committee, that have addressed many trucking security issues, including driver and vehicle security, cargo security, and facility security. The committees consist of security directors, many of whom are former law enforcement personnel, from a broad array of America's leading motor carriers. The committees publish guidelines and educational materials to assist motor carriers enhance the security of their operations.

In addition to the security issues, ATA has also been very active in ensuring the safe and secure transportation of hazmats and sensitive military freight.

Hazardous Materials and Military Freight

As the subcommittee is aware, in order for a truck driver to transport hazmats for a motor carrier, that driver must obtain a valid CDL and a hazmats endorsement. Both the CDL and the hazmats endorsement qualification are set forth in federal regulations. However, the respective licensing and testing is done by the individual state. Thus, the hazmats licensing for drivers is beyond the control of motor carriers. However, the transportation of hazmats must comply with the federal hazmats regulations, which are adopted and enforced by the states. Therefore, motor carriers involved with transportation of hazmats do work with the states, and their respective permit and registration programs if applicable, to increase transportation safety and prepare for incident emergency response.

Certain classes of hazmats are more highly regulated than others. For instance, high-level nuclear wastes from power plants are closely monitored by several Federal agencies, including the Department of Energy (DOE) and Department of Transportation (DOT). Transportation of this material is highly regulated, and motor carriers involved in its movement are pre-screened and approved by DOE. In fact, the trucking industry played an integral role in the development of the Commercial Vehicle Safety Alliance's (CVSA) Level VI enhanced radioactive transporter inspection criteria, which is specifically designed to afford a high level of driver, vehicle, and load scrutiny prior to the truck

leaving the shipper's facility.

Military shipments are another category of specific concern. Military shipments of Security Risk Category I and II, Arms, Ammunition and Explosives (SRC I & II, AAE), are highly regulated, as are lesser Class I explosive shipments of the Department of Defense (DOD). Prior to transporting these materials, motor carriers must be approved by the DOD, and after approval, they are closely monitored. Drivers are carefully selected and must successfully complete security background checks. Motor carrier terminals must meet certain levels of security as prescribed by the Military Traffic Management Command (MTMC). And, shipments of SRC I & II AAE must be transported directly from point of origin to destination with minimal delay.

Since October 2000, ATA has worked closely with MTMC through ATA's Government Traffic Policy Committee (prior to October 2000, the now-defunct Explosive Carriers Conference of the ATA performed that task) on a number of issues regarding safety and security of DOD shipments. Deliberations continue on MTMC's newest policies and procedures for transportation of SRC I & II AAE, including the recently proposed standards for motor carrier terminals. ATA has provided MTMC valuable information on possible security concerns and related solutions. The trucking industry views these measures as paramount to the safe and efficient transportation of these materials, and will continue to work with MTMC to see that AAE shipments securely arrive at their proper destination.

ATA is also working with Sandia Laboratories in the gathering of information for its Department of Justice (DOJ) study entitled the "Chemical Plant Vulnerability Assessment Project." This study, which examined the vulnerability of chemical plants that produce chemicals of mass destruction to terrorist attack and included the transportation chain, was presented to the ATA Safety Council's Hazardous Materials Committee in September 2001. ATA's Committee members provided information to Sandia Laboratories earlier in the year concerning transportation security issues of these types of hazmats.

The safe, efficient and secure movement of hazmats is of great importance to the trucking industry. Through work with DOT, CVSA, MTMC, Sandia Labs, and a multitude of associations whose members are major producers of chemicals and hazmats, ATA and its members have demonstrated that secure transportation of hazmats is a primary concern. ATA will continue to work with interested parties to ensure transportation of hazmats remains one of the safest transportation activities in the world.

International Land Borders

As the members of this Subcommittee are probably aware, on September 11, ports of entry at our international land borders were put on Level 1 Alert, resulting in extreme crossing delays on, and severely hampering delivery of, parts and equipment for just-in-time deliveries at manufacturing operations.

It is important to note that high-security environments are not new for motor carriers that participate in cross-border operations with Canada and/or Mexico. The trucking industry has established security controls in their operations in conjunction with manufacturers, brokers and with federal law enforcement agencies. For instance, the trucking industry, in a joint effort with U.S.

Customs, developed in 1995 the Land Border Carrier Initiative Program (LBCIP). This program was designed to counter the smuggling of illegal drugs via commercial land carriers and land conveyances. The LBCIP provides background information on drivers and trucking companies moving cargo across the U.S. Southwest border. According to U.S. Customs, over 1,000 trucking companies are approved and participating in this program and over 6,000 drivers have been certified by Customs (via background checks) to participate in the program. In return for participating in the LBCIP, motor carriers are able to expedite the movement and clearance of their goods through a program known as Line Release.

Joint industry-government efforts, such as the LBCIP and others, like the Business Anti-Smuggling Coalition (BASC), have allowed the trade community and law enforcement agencies to share information and improve security for cross border trucking operations. Such joint efforts will continue to work well into the future to eradicate the flow of illegal cargo entering the United States.

III. The Trucking Industry's Support in the Aftermath of September 11th

Assistance in Relief Efforts

In the immediate aftermath of September 11, the trucking industry worked around the clock in support of the relief efforts in New York and Washington by delivering critical cargo to the rescue workers and assisting in the coordination efforts. For example, the Federal Emergency Management Agency worked closely with the New Jersey Motor Transport Association to coordinate truck efforts in and around New York City. Emergency responders and trucking executives coordinating the recovery applauded trucking for its rapid response after the attacks.

As part of their support efforts, trucking companies delivered all types of supplies and equipment to the attack sites including medical supplies, earth moving equipment, communications equipment, emergency generators, mobile lighting trucks for nighttime rescue work, respirators, coveralls, protective gloves, blankets, and thousands of pounds of food and drinks. In addition, many dump truck drivers showed up to volunteer their services working 12-hour shifts.

Additional Security Measures Taken by the Trucking Industry

Motor carriers throughout the trucking industry took a number of measures to increase the security of their operations immediately following the attacks. Some motor carriers have re-evaluated their overall security procedures for pick-up and delivery, for their service locations, terminals and loading-dock facilities, for dispatch operations to vehicles in cities and on the road. In addition to requesting their personnel to be extremely alert and to report any suspicious activity to law enforcement personnel, other examples of actions taken include:

- Initiating new background checks through systems available to motor carriers;
- Designating specific drivers for specific types of loads and studying the specific routes to be used;

- Instructing drivers not to stop or render assistance except in the case of a clear emergency, and alerting drivers of possible ploys to obtain vehicles for hijacking purposes;
- Emphasizing to all trucking company employees, not only drivers, to stay alert and remain aware of their surroundings at all times, especially when transporting hazmats;
- Advising drivers transporting hazmats to, whenever possible, avoid highly populated areas, and use alternate routes if feasible to avoid such areas.
- Verifying seal integrity at each and every stop. Notifying central dispatch immediately if the seal is compromised.
- Advising drivers to notify supervisors/managers of any suspicious shipments, and if deemed necessary, to contact local police or law enforcement authorities to request inspection of shipment under safe practices.

These are just a few of the measures that trucking companies around the country took to enhance their operational security for not only on-the-road operations, but also at terminals and other facilities.

ATA Work with DOT and Other Federal Agencies

In addition to the emergency relief efforts that many ATA members have made, and the additional security measures that have been taken as mentioned above, ATA staff has also worked closely with federal officials to collect information requested by the federal government, and to disseminate critical security-related information to trucking companies throughout the country. For example, in the hours and days immediately following the attacks, DOT officials turned to ATA staff to provide information on trucking company security programs. ATA was more than happy to share the requested information with DOT officials. Bush Administration officials also requested that ATA provide information on diesel fuel supply and pricing throughout the country. Once again, ATA staff delivered the information. ATA also assisted the DOT in communicating information to hazmats transporters throughout the country on the agency's upcoming security sensitivity visits. In fact, ATA established an emergency information clearinghouse on its website, that it continues to update as additional information becomes available. ATA continues to stand ready to assist DOT, the FBI, and any other government agency that needs assistance in these unprecedented times.

IV. Legislative Remedies to Increase Security in Trucking

Relying on the expertise of its members, ATA is recommending the following specific legislative proposals to enhance the security of goods being transported by motor carriers.

Criminal Background Checks

While ATA and its members did not envision the evil wrought on September 11 when the ATA

Board of Directors in 1999 directed the ATA staff to pursue cargo theft deterrence legislation that would enable motor carriers to obtain criminal background information on all current and prospective employees, such legislation would be an effective step in addressing the threats we now know await.

The possibility of a truck being used as a weapon of mass destruction, while unthinkable before, is now a reality. In fact, as I mentioned earlier, the FBI's investigation has determined that several detainees suspected of involvement had fraudulently obtained CDLs. Numerous other industries with employees who have a demonstrated impact on public security or are in a position of public trust have been authorized by statute to access national crime information databases to search criminal history records corresponding to fingerprints or other identification information. The list includes federally chartered banks and credit unions through the American Bankers Association, child care providers, nuclear facility operators, nursing facilities, home health care agencies, and airports. Motor carriers are a glaring omission.

A scenario in which a truck driver or motor carrier warehouseman could wreak the same level of destruction as the September 11 perpetrators wrought through air transport means is no longer hard to imagine. Yet, although ATA has sought authorization from Congress to allow motor carriers to conduct criminal background checks of employees and potential employees, the trucking industry remains without this basic tool. Many of our responsible members use what services are currently available through outside vendors to conduct cumbersome county-by-county criminal background checks. However, all agree that it is simply not feasible to conduct a nationwide check under the present scheme. ATA stands willing to work with this Congress to enact legislation that would enable motor carriers to access national crime information databases to conduct nationwide criminal background checks. Moreover, ATA supports federal efforts to enhance interoperability and communications between various federal criminal history and immigration databases, which would assist in screening out potential threats.

Cargo Theft

It is no secret that cargo theft losses in our country have a severe economic impact on the trucking industry, the shipping public, businesses of all sizes and on consumers. The losses being suffered by our industry from pilferage, theft and hijackings continue to be substantial, with figures ranging from \$10 billion to \$12 billion annually. Therefore, for a number of years the trucking industry has looked for various means to reduce and control the losses caused by such illegal acts.

The lax penalties associated with, and insufficient resources devoted to, cargo theft have made it increasingly appealing to criminal elements as a source of funding. Further, some of the goods carried on behalf of America's producers and manufacturers may be diverted for sinister purposes. While, in ATA's view, the costs to the economy of cargo theft were significant enough to justify enactment of cargo theft legislation back in 1999, the security need, as highlighted by recent events, overshadows any monetary costs.

In addition to allowing motor carriers to conduct criminal background checks, ATA stands ready to work with Congress on a legislative proposal that would: 1) increase the criminal penalties and fines for cargo theft; 2) require uniform statistical reporting on cargo theft; and 3) provide increased

funding local, state, and federal multi-jurisdictional task forces that have proven effective in combating cargo theft. Further, in view of the possible threat posed to the public by stolen commercial motor vehicles, the legislation should establish a mechanism within DOT to allow for immediate, around-the-clock reporting of the theft. DOT should establish a toll-free hotline to receive reports from motor carriers of commercial vehicle thefts and then disseminate that information to federal, state, and local law enforcement personnel nationwide on a timely basis. Today, no such mechanism exists.

In other words Mr. Chairman, secure cargo means peace of mind. ATA looks forward to working with the members of this subcommittee to improve the ability of motor carriers to get the information they need about potential employees, and in arriving at a solution to help eliminate the high cost that cargo theft represents to our nation's economic wellbeing.

Now, I would like to turn your attention to two other specific areas in which the trucking industry plays crucial roles: international cargo movements, and commercial driver's licenses.

Border Infrastructure for International Cargo Movements

We would also ask the Subcommittee to look at technologies under development that can facilitate enforcement efforts while at the same time expedite the movement of cargo across our borders. One such system being designed presently by U.S. Customs is the International Trade Data System (ITDS). The ITDS concept is simple: Traders and carriers submit commercially based, standard electronic data records through a single federal gateway for the import or export of goods. As a single information gateway, ITDS distributes these records to the affected federal trade agencies, such as U.S. Customs, INS, and the DOT, for their selectivity and risk assessment. In standardizing the process, ITDS reduces the confusion and complexity of international trade, and speeds the processing of goods, equipment and crews across our borders. ITDS also benefits the government by providing more current and accurate information for revenue, public health, safety and security activities, and statistical analyses, as well as significantly reducing data processing development and maintenance costs.

We would urge the subcommittee to look at infrastructure needs of our ports of entry, in conjunction with other Senate Committees and Subcommittees with oversight of border agencies, to establish appropriate levels of human resources in addition to investments in technology infrastructure, such as the ITDS. Both Canada and Mexico, our largest and second largest trading partners respectively, play a critical role in our economic wellbeing through our economic interdependence. We cannot overlook the critical link that motor carriers play in the success of our increasing trade flows within North America. Therefore, we must continue to find solutions that will continue to allow us to move the legal commodity flows among our three nations, while at the same time improve our security relationships between the trade community and law enforcement agencies at our borders.

Commercial Driver's License Issues

With the full support of the motor carrier industry, the U.S. Congress, DOT and the states have been instrumental in establishing a generally successful CDL program. However, the fact that suspected terrorists have illegally obtained CDLs with hazardous materials endorsements should be a wake up call for all of us.

While the federal and state governments have done a good job putting the regulations, programs, and information systems in place to administer the program, the level of effort to actively monitor and oversee the personnel charged with administering the program has not been sufficient. The suspected terrorists illegally obtaining CDLs, and the number of recent CDL-related scandals in several states, is evidence that more oversight is needed, particularly as it relates to CDL testers and examiners. More federal personnel should be dedicated to program evaluation and oversight, possibly including dedicated federal CDL program personnel in each state. The states licensing agencies should also consider increasing their program oversight staffs, to work in greater cooperation with federal CDL oversight personnel. Congress should consider authorizing additional DOT positions for this function, and should also consider establishing a dedicated (and state matching) CDL grant program to provide additional financial assistance to states for greater program oversight.

An additional and more specific security-related issue concerning the CDL program is the collection and use of a driver's Social Security Number (SSN) by state licensing agencies. As part of the federally-required and state administered CDL program, state licensing agencies are required by DOT to collect SSNs on the CDL application. And, many states use the driver's SSN as the driver's state license number on the CDL document. The SSN is one of several ways that states uniquely identify truck drivers, which is an important aspect of the CDL program. With identity theft apparently playing a role in the recent attacks, ATA believes that the industry, the states and the federal government must consider ways to safeguard and even enhance personal identification methods. Clearly, however, we should not make it more difficult for the industry and the states to track the identities of truck drivers--which is what would occur if recently sponsored legislation on SSNs was passed by the Congress. ATA stands ready to work with DOT and the Congress to enhance truck driver identifiers, and calls upon Members of Congress to reject legislation that would do away with SSNs as personal identifiers on driver licenses.

V. Conclusion

Mr. Chairman, ATA members understand they are entrusted with the secure transportation of goods that keep America moving forward. Law enforcement has frequently been a strong ally in ATA's longstanding efforts to ensure the security of cargo on America's highways and across our international borders. We look forward to continued cooperation with those authorities charged with securing our Nation against future terrorist threats. ATA understands the role trucking must play to ensure our national security in this newly changed landscape. The trucking industry asks that Congress consider its proposals which will allow the trucking industry to better fulfill its role to safely and securely transport our nation's freight. I am pleased that this Subcommittee and the full Commerce Committee have expressed strong interest in advancing our industry's security proposals.